

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

RAYELLEN RESOURCES, INC., A New Mexico  
Corporation

And

DESTINY CAPITAL, INC., LYNNE E. ELKINS,  
PAULA D. ELKINS, JOY BURNS, CEBOLLETA  
LAND GRANT, FERNANDEZ COMPANY, LTD.,  
JUDITH WILLIAMS PHIFER, individually and as  
Personal Representative of THE ESTATE OF JAMES H.  
WILLIAMS, ORIN CURTIS CLEVE WILLIAMS,  
RIO GRANDE RESOURCES CORPORATION,  
STRATHMORE RESOURCES (U.S.) LTD.,  
LARAMIDE RESOURCES (USA) LTD., and  
ROCA HONDA RESOURCES, LLC, and PATRICK H.  
LYONS, COMMISSIONER OF PUBLIC LANDS

Plaintiffs-Petitioners,

v.

**No. CV 09-1085 MCA/CG**

NEW MEXICO CULTURAL PROPERTIES  
REVIEW COMMITTEE, and ALAN “MAC” WATSON,  
individually and as Chairman of the New Mexico  
Cultural Properties Review Committee,

Defendants-Respondents.

**STIPULATED ORDER**

This matter came before the court on Rayellen Resources, Inc.’s Motion for Leave to Amend First Amended Petition and Supporting Memorandum (hereafter “Rayellen’s Motion for Leave to Amend”) (Doc. No. 14), Rayellen Resources, Inc.’s Motion for Remand and Supporting Memorandum (hereafter “Rayellen’s Motion for Remand”) (Doc. No. 15) and Motion of (remaining) Plaintiffs-Petitioners for Partial Remand and for Temporary Stay of Federal Claims, Together with Supporting Points and Authorities (hereafter “Motion of (remaining) Plaintiffs-Petitioners”) (Doc. No. 17). The parties have now reached a stipulation resolving all matters concerning such motions and requests Court approval of this Stipulated Order. Having

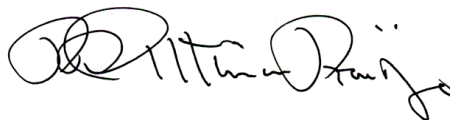
considered the motions and all other matters of record, and having reviewed this proposed Stipulated Order, and otherwise being advised in the premises,

It is, therefore, ORDERED

1. Rayellen has agreed, and stipulated, and the Court hereby Orders, that any and all claims asserted by Rayellen under 42 U.S.C. § 1983 and 42 U.S.C. § 1988 are dismissed with prejudice. Rayellen's Motion for Leave to Amend (Doc. No. 14) is hereby **GRANTED**. Rayellen is to promptly file its Second Amended Petition for Writ of Certiorari and Other Relief Pursuant to Rule 1-075 NMRA (hereafter "Second Amended Petition").
2. Upon Rayellen's filing of its Second Amended Petition, Rayellen's Motion for Remand (Doc. No. 15) is hereby **GRANTED** and Rayellen's Second Amended Petition will be remanded to the Honorable Judge Shoobridge of the Fifth Judicial District in the County of Lea, State of New Mexico pursuant to 28 U.S.C. §§ 1441(c), 1447(c).
3. As to the Motion of (the remaining) Plaintiffs-Petitioners (Doc. No. 17), by agreement and stipulation of the parties, it is ordered that all federal claims in their First Amended Complaint (claim for violation of Due Process Clause of the Federal Constitution asserted in Count I; Count II; and Count III) are hereby dismissed with prejudice (provided that nothing herein including any of the dismissals in this Order in any way prejudices or affects any of the state claims or non-federal claims of any of the Plaintiffs/Petitioners). The dismissal of the federal claims was based upon the consent of the parties and was not litigated on the merits. This dismissal shall have no preclusive effect as to any claims not

specifically dismissed, including Plaintiffs-Petitioners' claims regarding (1) relief pursuant to Rule 1-075 of the New Mexico Rules of Civil Procedure; (2) violation of the Due Process clause of the New Mexico Constitution; (3) violation of Article II, Section 11 of the New Mexico Constitution; (4) violation of the New Mexico Declaratory Judgment Act, NMSA 1978, Sections 44-5-1 to 44-6-15; (5) violation of the Open Meetings Act, NMSA 1978, Sections 10-15-1 to 10-15-4; (6) special relief for UP-LBAR and Lower L Bar; and (7) violation of Article II, Section 5 of the New Mexico Constitution (collectively "the Remaining Claims"), and does not decide any issues presented by those claims. Plaintiffs-Petitioners expressly reserve the right to sue based upon the Remaining Claims. Therefore, this Motion is **GRANTED** in part and **DENIED** in part. The Motion of (the remaining) Plaintiffs-Petitioners is **GRANTED** with respect to their request for remand and such Plaintiffs-Petitioners' remaining non-federal and state claims are hereby remanded to the Honorable Judge Shoobridge of the Fifth Judicial District in the County of Lea, State of New Mexico pursuant to 28 U.S.C. §§ 1441(c), 1447(c). The (remaining) Plaintiffs-Petitioners' request for a stay is now moot and is therefore is **DENIED**.

4. Pursuant to this Stipulated Order, and subject to compliance by Rayellen with Paragraph 2 herein, the above-captioned matter is hereby remanded to the Honorable Judge Shoobridge of the Fifth Judicial District in the County of Lea, State of New Mexico.

A handwritten signature in black ink, appearing to read "M. Christina Armijo". The signature is fluid and cursive, with the first name "M." being a large, stylized initial.

12/29/09

**M. CHRISTINA ARMIJO**

United States District Judge

**SUBMITTED BY:**

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